REMARKS

In the foregoing amendments, claims 16, 17, 25, 27, 34-36, 38-40, 42, 44, 46, 47, 49-51, 58, and 60 are amended. Claims 22-24, 41, 43, 45, 57, and 59 are canceled without prejudice or disclaimer. Claims 16-21, 25-40, 42, 44, 46-56, 58, and 60-63 are now pending in the present application.

Response to 35 U.S.C. §103 Rejections

Claims 16-20, 22-29, 32, 33, 35-42, 49-53, 57, 58, 61, and 63 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Rakib et al.* (U.S. Patent No. 6,889,385) in view of *Kenner et al.* (U.S. Patent No. 6,112,239). Claims 21, 30, 31, 34, and 54 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Rakib et al.* in view of *Kenner et al.* and *Addington* (U.S. Patent No. 6,928,656). Claims 43-47, 59, 60, and 62 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Rakib et al.* in view of *Kenner et al.* and *Nabakht et al.* (U.S. Patent No. 6,813,639). Claims 48 and 56 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Rakib et al.* in view of *Kenner et al.* and *Nakamura et al.* (U.S. Patent No. 5,913,039). And lastly, claim 55 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Rakib et al.* in view of *Kenner et al.* and *Pecus et al.* (U.S. Patent No. 6,886,029).

With respect to claims 22-24, 41, 43, 45, 57, and 59, which have been canceled by amendment herein, the rejection is considered to be moot. With respect to pending claims 16-21, 25-40, 42, 44, 46-56, 58, and 60-63, Applicants respectfully traverse the rejections on the grounds that the claims, as amended, include subject matter that the cited references neither teach nor suggest, as explained in more detail below.

A. Claim 16-21, 25, and 26

Independent claim 16 is reproduced below:

16. A method for enabling a receiver in a digital subscriber network to request services, the method comprising the steps of:

receiving, at a receiver, a dynamic network information table inserted within a transport stream from a first device, ***the dynamic network information table including a device-specific subtable and an upstream subtable, the device-specific subtable including information associated with transmission characteristics of the first device,*** the first device positioned in the digital subscriber network upstream with respect to the receiver, ***the upstream subtable including information associated with transmission characteristics of one or more devices positioned in the digital subscriber network upstream with respect to the first device***; and

transmitting a request for a service, ***the requested service including at least a portion of the information included in the dynamic network information table.***
(Emphasis added)

The cited references, taken alone or in combination, fail to teach or suggest the above-highlighted features of claim 16. For example, claim 16 recites receiving, at a receiver, a dynamic network information table inserted within a transport stream from a first device. The dynamic network information table includes ***a device-specific subtable and an upstream subtable.*** The device-specific subtable includes ***information associated with transmission characteristics of the first device*** and the upstream subtable includes ***information associated with transmission characteristics of one or more devices positioned in the digital subscriber network upstream with respect to the first device.*** The cited references fail to teach or suggest such a dynamic network information table.

The Office Action states that *Kenner et al.* teaches one or more device-specific subtables, each subtable including information associated with transmission characteristics of an upstream device. Applicants disagree with this statement and contend that *Kenner et al.* actually discloses a sublist of a look-up table comprising a "list of first-byte IP addresses" and a "list of delivery sites providing improved performance for users having corresponding IP addresses" (see col. 17, lines 23-29). Although *Kenner*

et al. discloses a look-up table, this look-up table clearly does not include a ***device-specific subtable*** and an ***upstream subtable***, as claimed. Applicants assert that *Kenner et al.* fails to disclose a subtable including ***transmission characteristics***, as claimed. Assuming, for the sake of argument, that *Kenner et al.* teaches a subtable having transmission characteristics of a device, it should be clear that *Kenner et al.* fails to further disclose a subtable including ***transmission characteristics of a first device*** and ***transmission characteristics of one or more devices... upstream with respect to the first device***. The other cited references, taken alone or in combination, fail to overcome the deficiencies of *Rakib et al.* and *Kenner et al.*

For at least these reasons, it is believed that claim 16 is patentable over the cited references. Also, claims 17-21, 25, and 26 are believed to be allowable for at least the reason that they depend directly or indirectly from allowable independent claim 16.

B. Claim 27-34

Independent claim 27 is reproduced below:

27. A method for providing a receiver in a digital subscriber network, the method comprising the steps of:

receiving from a receiver a request for a service, the request including ***network information related to at least one characteristic of a plurality of transport streams transmitted within the digital subscriber network*** to the receiver;

processing the request for the service using the received network information to determine which one or more transport streams of the plurality of transport streams have sufficient bandwidth to provide the requested service; and

providing the requested service to the receiver based on the determination of which one or more transport streams have sufficient bandwidth.

(Emphasis added)

The combination of *Rakib et al.* and *Kenner et al.* fails to teach or suggest the above-highlighted features of claim 27. Particularly, claim 27 includes receiving a request for a service, where the request includes ***network information related to at least***

one characteristic of a plurality of transport streams transmitted within the digital subscriber network. The cited references fail to teach or suggest a service request that includes network information, specifically ***network information related to at least one characteristic of a plurality of transport streams transmitted within the digital subscriber network***.

Furthermore, claim 27 recites the step of ***processing the request for the service using the received network information to determine which one or more transport streams of the plurality of transport streams have sufficient bandwidth to provide the requested service***. The cited references fail to teach or suggest processing a request using network information, as claimed in claim 27, particularly to determine which transport streams have ***sufficient bandwidth to provide the requested service***. The cited references fail to overcome the deficiencies of Rakib et al. and *Kenner et al.*

For at least these reasons, it is believed that claim 27 is allowable over *Rakib et al.* Claims 28-34 are believed to be allowable for at least the reason that they depend directly or indirectly from allowable independent claim 27.

C. Claims 35-40, 42, 44, and 46-48

Independent claim 35 is reproduced below:

35. An apparatus in a digital network coupled to a first communication link and a second communication link, the apparatus comprising:

an input port adapted to ***receive a first transport stream through a first communication link, the first transport stream including a first dynamic network information table***, the first dynamic network information table including network information related to an identifier corresponding to an upstream device in communication with the first communication link;

a processor in communication with the input port, the processor adapted to determine network information related to the received transport stream, the processor further adapted to ***create a second dynamic network information table, the second dynamic network information table having an identifier associated with said apparatus***

and the network information included in the first dynamic network information table; and

a transmitter in communication with the processor, the transmitter adapted to transmit the second dynamic network information table through the second communication link.

(Emphasis added)

The cited references, taken alone or in combination, fail to teach or suggest the above-highlighted features of claim 35. For instance, claim 35 is directed to an apparatus that includes an input port and a processor. The input port is adapted to receive a first transport stream ***having a first dynamic network information table*** and the processor is adapted to ***create a second dynamic network information table*** which has an identifier ***associated with said apparatus*** and network information from ***the first dynamic network information table***. The cited references fail to teach or suggest these aspects of claim 35.

For at least these reasons, it is believed that claim 35 is allowable over *Rakib et al.* Also, claims 36-40, 42, 44, and 46-48 are believed to be allowable for at least the reason that they depend directly or indirectly from claim 35.

D. Claims 49-56, 58, and 60-63

Independent claim 49 is reproduced below:

49. A method for propagating network information in a digital broadband delivery system, the method comprising:

receiving in a first device a first transport stream from an upstream device, the first transport stream including a first dynamic network information table, ***the first dynamic network information table including network information related to at least one characteristic of one or more transport streams*** transmitted within the digital broadband delivery system;

inserting the network information and information specific to the first device in a packet of a second transport stream; and

transmitting the second transport stream to a downstream device.

(Emphasis added)

The cited references fail to teach or suggest the above-highlighted features of claim 49. Particularly, claim 49 includes receiving in a first device a first transport stream, which includes a first dynamic network information table. The first dynamic network information table includes ***network information related to at least one characteristic of one or more transport streams***. The method further includes ***inserting the network information and information specific to the first device in a packet of a second transport stream***. *Rakib et al.* and *Kenner et al.* fail to teach or suggest these steps of claim 49 and the other cited references fail to overcome these deficiencies.

For at least these reasons, it is believed that claim 49 is patentable over the combination of references. Also, claims 50-56, 58, and 60-63 are believed to be allowable for at least the reason that they depend directly or indirectly from claim 49.

Alleged Well-Known Art

The Office Action states that it would have been well known in the art that if a user selects an interest group from a table that is presented, then a device would have to respond to a request and provide the interest group of channels to the user in another transport stream. Applicants traverse this statement because the statement is not capable of instant and unquestionable demonstration as being well known and does not include specific factual findings predicated on sound technical and scientific reasoning. Basis for such reasoning must be set forth explicitly. Also, in context of the claims, the subject matter alleged to be well known is too complex for a reasonably skilled person to consider it to be well known to such a point that no additional evidence is needed.

CONCLUSION

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 16-21, 25-40, 42, 44, 46-56, 58, and 60-63 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at (770) 933-9500.

Respectfully submitted,

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